Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of **Petition of AT&T Services, Inc. For Forbearance Under 47 U.S.C. § 160(c) From Enforcement Of Certain Rules For Switched Access Services And Toll Free Database Dip Charges**	WC Docket No. ____

Accepted / Filed
SEP 30 2016
Federal Communications Commission
Office of the Secretary

PETITION OF AT&T SERVICES, INC. FOR FORBEARANCE UNDER 47 U.S.C. § 160(c)

Michael J. Hunseder
E. Benton Keatley
Sidley Austin LLP
1501 K Street, NW
Washington, D.C. 20005
(202) 736-8000 - telephone
(202) 736-8711 - facsimile

Christi Shewman
Gary L. Phillips
David L. Lawson
AT&T Services, Inc.
1120 20th Street, NW
Suite 1000
Washington, D.C. 20036
(202) 457-3090 - telephone
(202) 463-8066 - facsimile

September 30, 2016

Attorneys for AT&T Services, Inc.

TABLE OF CONTENTS

Page

I. INTRODUCTION AND SUMMARY 1

II. BACKGROUND 4

III. STANDARD FOR FORBEARANCE 11

IV. THE COMMISSION SHOULD FORBEAR FROM TARIFFING REQUIREMENTS FOR TANDEM SWITCHING AND TANDEM-SWITCHED TRANSPORT ACCESS CHARGES ON CALLS TO OR FROM LECs ENGAGED IN ACCESS STIMULATION 13

V. THE COMMISSION SHOULD FORBEAR FROM RULES THAT PERMIT CHARGES FOR 8YY DATABASE DIPS. 18

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of **Petition of AT&T Services, Inc. For Forbearance Under 47 U.S.C. § 160(c) From Enforcement Of Certain Rules For Switched Access Services And Toll Free Database Dip Charges**	WC Docket No. ____

PETITION OF AT&T SERVICES, INC. FOR FORBEARANCE UNDER 47 U.S.C. § 160(c)

Pursuant to 47 U.S.C. § 160(c) and 47 C.F.R. § 1.53, Petitioner AT&T Services, Inc., on behalf of its affiliates ("AT&T"),[1] hereby petitions and respectfully requests that the Commission grant forbearance from its rules for (i) switched access services related to tandem and transport service provided on calls to carriers engaged in access stimulation; and (ii) database query charges to long distance carriers for toll-free services.[2]

I. INTRODUCTION AND SUMMARY

In 2011, the Commission adopted a new regulatory regime for intercarrier compensation, determining that a "uniform national bill-and-keep framework" would be the "ultimate end state" for all telecommunications traffic between carriers. Report and Order, *In re Connect America Fund*, 26 FCC Rcd 17663, ¶ 34 (2011) ("*USF/ICC Transformation Order*"). The Commission

---

[1] AT&T Corp. is the AT&T affiliate that principally provides long distance services, and, as such, it is the entity that is billed and that pays the charges for the access services discussed in this Petition. AT&T also has affiliates that operate as local exchange carriers that bill for some of the access services discussed in the Petition.

[2] Pursuant to 47 C.F.R. § 1.54(a), Appendix A to this Petition contains the precise scope of the relief sought, including the specific rules and regulations for which forbearance is required under 47 U.S.C. § 160(c).

found that bill-and-keep had several "significant policy advantages," including the introduction of "market discipline" into intercarrier compensation, which under the traditional model often requires a carrier to accept the prices and terms in another carrier's filed tariff. *Id.* ¶¶ 738, 742. Additionally, the Commission concluded that "bill-and-keep" would "best address[] access charge arbitrage," *id.* ¶ 1297, which the Commission recognized would continue to exist, even though it also adopted some reforms to attempt to "curtail" the "most prevalent" forms of access arbitrage, such as "access stimulation." *See, e.g.*, *id.* ¶¶ 649, 690.

The transition to a bill-and-keep regime was neither immediate nor universal. Instead, the Commission adopted a "multi-year transition," and did so for only some switched access rate elements – such as terminating end office switching and "certain transport rate elements" – and for only certain carriers in specific circumstances. *Id.* ¶¶ 798, 800.[3] For other rate elements, including other tandem switching and tandem transport services, the Commission did not "specify the transition to reduce these rates" and instead asked for further comment, which was received in 2012. *Id.* ¶ 800; *see id.* ¶¶ 1297-1325. The Commission "agree[d]" with those commenters that "warn[ed] that failure to take action promptly on these [other] elements could perpetuate inefficiencies, delay the deployment of IP networks and IP-to-IP interconnection, and maintain opportunities for arbitrage." *Id.* ¶ 1297; *see id.* ¶¶ 817, 819.

The Commission is now several years into its multi-year transition, and, for many carriers, terminating end office switching rates will be transitioned to bill-and-keep on July 1, 2017. *Id.* ¶ 801. Further, even though some transport rates will transition to bill-and-keep on July 1, 2018, *see* note 3, the Commission has not yet specified a transition period for other

[3] For price cap carriers and competitive local exchange carriers ("CLECs") that benchmark to price cap carriers, terminating end office and transport is subject to the transition for all terminating traffic within the tandem serving area when the terminating carrier owns the serving tandem switch. *Id.* ¶ 800.

transport rates. Consequently, absent prompt action, charges for transport services will soon be arbitrarily asymmetric: some carriers in certain circumstances will be permitted to tariff transport charges indefinitely, whereas others will have already transitioned to bill-and-keep. This is precisely the type of arbitrary intercarrier compensation system that the Commission has been trying to eradicate by its reforms. *See id.* ¶ 9.

As explained in more detail in the background to this Petition, the Commission's failure to act has, in fact, "perpetuate[d] inefficiencies, delay[ed] the deployment of IP networks and IP-to-IP interconnection, and maintain[ed] opportunities for arbitrage." *Id.* ¶ 1297. AT&T thus urges the Commission to act with urgency and finish the intercarrier compensation reforms that it years ago concluded were vital.

While the Commission can and should promptly issue new rules to address the remaining inefficiencies and arbitrage activities in its hybrid intercarrier compensation system, in the remainder of this Petition, AT&T explains why the Commission also should take immediate steps, under its forbearance authority, to address several statutory and regulatory requirements that cause unreasonable rates, harm consumers, and are inconsistent with the public interest.

First, the Commission should forbear from the tariffing of access charges for tandem switching and tandem-switched transport for all LECs, including intermediate LECs, on all calls to or from LECs engaged in access stimulation. *See infra* Part IV. The Commission has already determined that access stimulation causes unreasonable access rates, harms consumers, and injures competition – as well as diverting capital from broadband expenditures. *Id.* ¶¶ 662-665. Although the Commission instituted partial reforms in 2011, it recognized that those reforms would not eliminate access stimulation or the many "adverse effects" that arise from it. Today, access stimulation schemes continue to flourish, in large part because the carriers engaged in the practice are able to generate access bills with very high per-minute per-mile transport charges. Forbearance is necessary to protect ratepayers and IXCs from being forced (i) to contribute to the "inflated profits" of LECs engaged in access stimulation and (ii) to subsidize users of "free" conference and adult chat line services.

Second, the Commission should forbear from its rules allowing LECs to assess per query database dip charges on toll-free calls. *See infra* Part V. These tariffed database query charges, which are not covered by the Commission's existing transition to bill-and-keep or its benchmark rules for CLEC access charges, vary substantially among LECs, and many query charges for toll-free database dips are priced well above the rates that prevail in the wholesale market for query charges. Forbearance from rules that allow and encourage such charges in tariffs is consistent with the Commission's existing approach to intercarrier compensation, which "rejects the notion" that only one party to a call "benefits from [the] call and therefore should bear the entire cost of originating, transporting, and terminating a call." *USF/ICC Transformation Order*, ¶ 34. Eliminating these per query charges will also eliminate an implicit subsidy and, by subjecting the costs of these queries to market discipline, will ultimately reduce charges to consumers. *Id.* ¶¶ 14, 742, 745.

II. BACKGROUND

In 2011, the Commission took a critically important step by adopting a national bill-and-keep framework, and determining that this new regime would serve as the "ultimate end state" for *all* intercarrier compensation, including originating access charges and all transport access charges. *USF/ICC Transformation Order* ¶¶ 34; *see id.* ¶¶ 817, 819. However, as described above, the Commission's bill-and-keep reforms were incomplete and inadequate, because many forms of intercarrier compensation – most notably originating access charges and many transport related charges – were not subject to any transition to the bill-and-keep regime. *Id.* ¶¶ 35, 1297.

Today, nearly five years later, there is still no transition to bill-and-keep for these rate elements, even though the Commission found that such a result would be "problematic." *Id.* ¶ 820 ("we agree . . . that the continuation of transport charges in perpetuity would be problematic"); *id.* ¶ 817 ("we find that originating charges for all telecommunications traffic . . . should ultimately move to bill-and-keep"); *see id.* ¶ 1297. Because of the incomplete reform, the system for the remaining rate elements remains subject to the many flaws that the Commission identified as existing with the traditional intercarrier compensation regime. *Id.* ¶ 9 ("ICC has become riddled with inefficiencies and opportunities for wasteful arbitrage"); *see id.* ¶¶ 648, 736-53, 820.

First, the charges imposed on long distance carriers for the remaining originating access and transport rate elements, even though they are mostly capped, *see id.* ¶¶ 798, 801, continue to reflect implicit subsidies and to be priced inefficiently, based on out-of-date rate structures. *Id.* ¶¶ 9, 648, 752-53. There is little doubt that both originating access charges and the transport charges not subject to transition are priced above cost, providing implicit subsidies to the charging carrier, to the detriment of ratepayers of the purchasing carriers. *Id.* ¶ 9 (under the traditional intercarrier compensation regime, there are "hundreds of millions of Americans paying more on their wireless and long distance bills than they should in the form of hidden, inefficient charges"). What is more, under the traditional intercarrier compensation system, charges for these rate elements were "built" on an outdated and inefficient rate structure based "on geographic and per-minute charges." *Id.* ¶ 648. Yet, under the Commission's existing regime for elements not subject to transition, carriers will continue indefinitely to bill per-minute originating access charges, as well as per-minute, per mile transport charges that have little rational relationship to their underlying cost.

Second, these inefficient originating access and transport charges are not subject to any effective "competitive discipline." *Id.* ¶ 742. As the Commission has explained, under the traditional regime, the market for switched access charges is not subject to full competition, and long distance carriers generally have no choice but to pay for access charges that are lawfully tariffed and properly provided pursuant to tariffs filed by the LECs. *See, e.g.*, *CLEC Access Charge Reform Order*, 16 FCC Rcd. 9923, ¶¶ 2, 30-31, 34 (2001).[4] Although the Commission has allowed carriers to negotiate rates for intercarrier compensation, *see USF/ICC Transformation Order* ¶ 812, the LECs providing the access services not subject to a transition to a bill-and-keep regime have little, if any, incentive to provide their customers (IXCs) with rates and terms that are more favorable than those found in the LECs' access tariffs. By contrast, in competitive markets, customers purchasing a service have the ability to select between or among suppliers, and suppliers have every incentive to offer the best combination of rates and terms to win the business of the purchasers.

As to transport and tandem rate elements, the Commission's patchwork of reforms of intercarrier compensation are leading to especially perverse results, because there are "alternative

[4] In fact, the Commission has generally prohibited IXCs from refusing to complete calls to a particular LEC due to intercarrier disputes. *In re Establishing Just & Reasonable Rate*, 22 FCC Rcd. 11629, ¶¶ 1, 5 (2007) ("*Call Blocking Declaratory Ruling*") ("[C]arriers cannot . . . block[] traffic to LECs allegedly engaged in [traffic pumping].").

In its recent *ILEC Non-Dominance Order*, the Commission decided that incumbent LECs should not be classified as "dominant" in the provision of switched access. Declaratory Ruling, Second Report and Order, and Order on Reconsideration, *Technology Transitions; USTelecom Petition for Declaratory Ruling That Incumbent Local Exchange Carriers Are Non-Dominant in the Provision of Switched Access Services*, GN Docket No. 13-5, FCC 16-90 (rel. July 15, 2016) ("*ILEC Non-Dominance Order*"). That finding, however, rested on the fact that the Commission would ultimately be "phasing out per minute charges for interstate . . . access" and thus that, under the Commission's partially revised regulatory regime, ILECs, like CLECs, would be unable to control prices. *Id.* ¶ 25; *see id.* ¶¶ 26-28. The Commission recognized that "*all* LECs" – both ILEC and CLECs – "have control over access to their own telephone subscribers," and thus (absent the Commission's regulatory regime) have the ability to impose rates and terms on IXCs. *See id.* ¶ 30.

tandem providers" that have "made significant inroads in the market," and in many markets have been found to be "effectively competing against the incumbents by winning a significant percentage of the tandem transit traffic in those states."[5] For example, Inteliquent (formerly Neutral Tandem), which claims to be the first competitive tandem service provider,[6] started in a few major markets in 2004 but has now expanded to "almost all markets in the contiguous United States, Hawaii, and Puerto Rico."[7] Inteliquent recently reported that competition in this market has "intensified"[8] and that it has "faced increasing direct competition from other competitive providers of voice services, including Level 3, Peerless Network, and Hypercube."[9] Level 3 has its own tandem network, which, according to one filing, consists of five regional tandems.[10] Another major competitor in the market is HyperCube (recently renamed West Telecom Services), which provides "facilities-based competitive tandem service[]" in 47 states and the District of Columbia.[11] Peerless Network is another provider of "tandem switched access services to other carriers, and local and access tandem services."[12] The company has invested "nearly $30 million in over 40 major markets across the country" and "provides a combined TDM and IP network connected to nearly every major domestic carrier offering call

---

[5] John R. Harrington, et al., *An Evaluation of the Proposals in the FCC's Intercarrier Compensation Reform Docket Related to Tandem Transit Services*, 61 Fed. Com. L.J. 325, 368-69 (2009).

[6] Inteliquent, Inc., 2015 10-K, at 3 (Feb. 18, 2016).

[7] *Id.*

[8] *Id.* at 4. According to one of its SEC filings, Inteliquent provides competitive tandem services in 189 of the 192 Local Access and Transport Areas ("LATAs") in the United States and Puerto Rico (all except Fishers Island and parts of the Navajo Nation). *Id.*

[9] *Id.* at 7.

[10] *See* Letter from J. Nakahata (counsel for Level 3) to M. Dortch (FCC), *Connect America Fund*, WC Docket No. 10-90, at 6 (April 15, 2013).

[11] Letter from M. Hazzard (counsel for HyperCube) to M. Dortch (FCC), *Access Charge Reform*, CC Docket No. 96-262, Attachment at 2 (June 12, 2009); West Corporation, 2015 10-K, at 18 (Feb. 18, 2016).

[12] Letter from to M. Dortch (FCC), *IP-Enabled Services*, WC Docket No. 04-36, at 2 (Sept. 8, 2008).

origination and termination services in over 100 LATAs (Local Access Transport Areas) and 30 MTAs (Major Trading Areas)."[13] Onvoy provides "over 65 points of interconnection in 30 states and is connected to all major IXCs."[14] Tandem Transit, LLC is an "IP alternative" that works as a "third party transit manager."[15]

Given that there are multiple willing suppliers of tandem and transport services, the Commission should move rapidly to dismantle its traditional rules, which inhibit competition that would bring market discipline to transport and tandem rates. In particular, much of the problem arises because, under the Commission's traditional rules, IXCs generally must pay properly tariffed and billed tandem and transport charges, but are not always clearly permitted to select the provider of those services or the most efficient means to transport traffic. This perverse economic relationship means that IXCs are often billed for inefficient and costly tandem and transport services, which they would not willingly choose if they could more freely select among competitive providers of tandem and transport services.

In the present circumstances, the most effective way to transition tandem and transport access services to bill-and-keep would be for the Commission to eliminate the rules that force IXCs to pay for services on terms dictated by LECs and that act as barriers to competition for these services. For example, if the Commission were to detariff all tandem switching and transport, and issue reasonable rules to define the "network edge,"[16] then the resulting

---

[13] Comments of Peerless Network, Inc., *Technologies Transitions Policy Task Force*, GN Docket No. 13-5, at 2(July 8, 2013).

[14] Onvoy, https://www.onvoy.com/products/tandem-transit.

[15] Tandem Transit, http://www.tandemtransit.com/it-news.html.

[16] *See USF/ICC Transformation Order*, ¶ 1320; Comments of AT&T, WC Docket No. 10-90, *et al.*, at Part III, pp. 51-74 (filed Feb. 24, 2012).

competitive market would in most cases be able to ensure that IXCs would not be charged unreasonable transport charges to carry traffic to the "edge."

The Commission's failure to begin the transition of originating access and the remaining transport charges to bill-and-keep is also likely deterring investment in broadband and the orderly transition to IP networks. *See id.* ¶ 820. The Commission's failure to eliminate these deterrents is especially acute given that the transport rates of some LECs can be indefinitely maintained, whereas some transport rates of some incumbent LECs in many circumstances will be transitioning to bill-and-keep in July 2018.

Third, because of the inefficiencies in the current, outdated system governing charges for originating access and transport services, the "arbitrage schemes" that have consistently plagued the intercarrier compensation regime remain a significant problem. *USF/ICC Transformation Order*, ¶¶ 9, 648. Although the Commission adopted rules that, in part, address "access stimulation," and that are designed to "curtail" it, *see id.* ¶¶ 648-700, in AT&T's experience, access stimulation remains rampant. Indeed, since 2011, *billions* of minutes of access traffic continue to be stimulated each year, and despite the Commission's reform efforts, the practice has not been curtailed in any meaningful way. As a consequence, ordinary customers of IXCs and wireless providers continue to subsidize users of the "free" calling services associated with the schemes – and to unjustly enrich the LECs and service providers perpetuating these schemes. *See id.* ¶¶ 663-64.

The unscrupulous carriers that have continued to engage in access stimulation have sought to rely on inflated transport charges to replace arbitrage revenues that were reduced because of the reforms the Commission made in 2011. Even as terminating end office access charges have declined under the Commission's transition to bill-and-keep, carriers have been able to maintain, and even expand, access stimulation schemes by billing excessive transport, and "inflat[ing] the mileage used to compute the transport charges." *Id.* ¶ 820.[17] For example, since 2012, one carrier engaged in access stimulation has billed AT&T 192 miles of distance-sensitive transport charges on virtually every minute of traffic. Under the Commission's reforms, this carrier's end office charges per call have been reduced to 0.07 cents per minute, but the charges for the 192 miles of transport add about 0.60 cents per minute on each call. In other words, the existence of these transport charges increased the billed rate by over 300 percent.[18]

Arbitrage activities also affect originating access charges. To win business, some tandem providers are sharing a portion of the tandem and transport revenues, to the detriment of both ratepayers and competitors. *See id.* ¶¶ 663, 665, 666 ("excess [access] revenues that are shared in access stimulation schemes provide additional proof that the LEC's rates are above cost"). Likewise, some LECs are engaged in schemes to overcharge on wireless-originated traffic, such as 8YY. *See, e.g., AT&T Services, Inc. v. Great Lakes Comnet*, 30 FCC Rcd. 2586 (2015), *pet.*

---

[17] When examining past access arbitrage schemes, the Commission has recognized that its own rules often encouraged such schemes. *E.g., CLEC Access Reform Order*, 16 FCC Rcd. 9923, ¶¶ 28-34 (because, under the Commission's tariff regime, the access provider is not chosen by the IXC that pays the access cost, and because the IXC cannot pass on excessive access costs to entities that cause such costs, the CLECs have the "ability to impose excessive access charges"); *USF/ICC Transformation Order*, ¶¶ 688-90 (CLEC access stimulation schemes have flourished because CLECs were allowed to benchmark against small ILECs with high rates, even though the CLECs handled very large volumes of traffic). The same is still true today. Unscrupulous LECs can file tariffs with access rates that are not subject to negotiation, and IXCs often have little realistic opportunity to avoid the charges. Even though the Commission has capped the rates, these caps can be ineffective in addressing "mileage pumping" schemes, or excessive transport charges billed in association with access stimulation schemes.

[18] In the litigation with this carrier, AT&T has several defenses as to why these charges are inappropriate and unlawful, including that, under the Commission's access stimulation and benchmark rules, the carrier should be lowering its rate for transport to match the "direct connection" rate offered by the lowest-priced price cap carrier in the state. Although AT&T expects to prevail in that case, the point here is that the Commission's incomplete reforms of ICC have not adequately curtailed access stimulation schemes, and that such schemes continue to lead to expensive and protracted litigation disputes in courts and before the Commission. Although the Commission should continue to address such wrongdoing in case-by-case adjudication, it should also move forward with reforms that make these harmful arbitrage activities more difficult to initiate in the first place.

for review denied in part, granted in part, 823 F.3d 998 (D.C. Cir. 2016). As such, reform of originating access charges is important to prevent further proliferation of such arbitrage activities. In fact, arbitrage schemes are increasingly shifting to 8YY (as well as tandem-switching and transport) as the Commission's reforms of other elements proceed.

Because the partial reforms to the intercarrier compensation regime continue to perpetuate inefficient rates, and to allow access arbitrage schemes to flourish, the Commission should promptly act to set the transition for the remaining intercarrier compensation charges, and to revise its existing rules to allow competition to discipline intercarrier compensation. However, in the meantime, as explained below, the Commission should immediately forbear from two types of requirements for which there is no current need, and that adversely affect intercarrier compensation and competition.

III. STANDARD FOR FORBEARANCE

Under Section 10(a) of the Communications Act of 1934, as amended ("Act"), the Commission

> shall forbear from applying any regulation or any provision of this chapter to a telecommunications carrier or telecommunications service, or class of telecommunications carriers or telecommunications services, in any or some of its or their geographic markets, if the Commission determines that—
>
> (1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;
>
> (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and
>
> (3) forbearance from applying such provision or regulation is consistent with the public interest."

47 U.S.C. § 160(a).

Forbearance is mandatory when these three statutory criteria are met, and "there is a great deal of overlap in the three factors." *Verizon v. FCC*, 770 F.3d 961, 964 (D.C. Cir. 2014). Under the first two factors, to determine what is "necessary," the Commission has applied, and the courts have embraced, a test in which the Commission examined whether there is a "strong connection" between the rule and the agency's purpose. *See, e.g.*, *CTIA v. FCC*, 330 F.3d 502, 512 (D.C. Cir. 2003). More recently, the Commission has explained that there must be a "current need" to maintain a statutory requirement or a challenged regulation. *AT&T Cost Assignment Forbearance Order*, 23 FCC Rcd. 7302, ¶ 20 (2008); *Verizon*, 770 F.3d at 967.

As to the "public interest" determination, Section 10(b) of the Act provides that the Commission "shall consider whether forbearance from enforcing the provision or regulation will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services." 47 U.S.C. § 160(b). Where forbearance promotes competition, the Commission can rely on that determination to "find[] that forbearance is in the public interest." *Id.*

Section 10(c) provides that a forbearance petition "shall be deemed granted" if the Commission does not deny the petition "within one year after the Commission receives it," or an additional 90 days if the Commission extends that original one-year period. 47 U.S.C. § 160(c). Under Section 10(c), to avoid a petition being deemed granted, "the Commission must, within the statutorily prescribed period, affirmatively find that at least one of the substantive prerequisites for forbearance is not satisfied." *Qwest Corp. v. FCC*, 689 F.3d 1214, 1226 (10th Cir. 2012). Further, given the statutory deadline, the Commission has recognized, and the courts have agreed, that under Section 10(c), "the Commission must attend promptly to forbearance petitions." *Id.*

IV. THE COMMISSION SHOULD FORBEAR FROM TARIFFING REQUIREMENTS FOR TANDEM SWITCHING AND TANDEM-SWITCHED TRANSPORT ACCESS CHARGES ON CALLS TO OR FROM LECs ENGAGED IN ACCESS STIMULATION.

The Commission should forbear from the tariffing requirements of the Act and its rules as to all tandem switching and tandem-switched transport charges on all traffic to or from LECs engaged in access stimulation under the Commission's rules.[19] As to access stimulation, the Commission's tariffing rules for tandem and transport access charges lead to unjust and unreasonable rates, harm consumers, and are contrary to the public interest. As a result, forbearance is required. *See* 47 U.S.C. § 160.

In 2011, the Commission concluded that access stimulation schemes had many "adverse effects." *USF/ICC Transformation Order*, ¶ 662. For example, as the Commission explained, "[a]ccess stimulation imposes undue costs on consumers, inefficiently diverting capital away from more productive uses such as broadband deployment." *Id.* ¶ 663. Because the Commission's rate averaging rules limit IXCs from passing on the higher access charges billed by a LEC engaged in access stimulation, "all customers of these long-distance providers bear these costs, even though many of them do not use the access stimulator's services, and, in

---

[19] *See* 47 C.F.R. § 61.3(bbb) (defining access stimulation). As explained by the Commission, access stimulation often occurs when "a LEC with high switched access rates enters into an arrangement with a provider of high call volume operations such as chat lines, adult entertainment calls, and 'free' conference calls. The arrangement inflates or stimulates the access minutes terminated to the LEC, and the LEC then shares a portion of the increased access revenues resulting from the increased demand with the 'free' service provider, or offers some other benefit to the 'free' service provider. The shared revenues received by the service provider cover its costs, and it therefore may not need to, and typically does not, assess a separate charge for the service it is offering. Meanwhile, the wireless and interexchange carriers (collectively IXCs) paying the increased access charges are forced to recover these costs from all their customers, even though many of those customers do not use the services stimulating the access demand." *USF/ICC Transformation Order*, ¶ 656. Additionally, access stimulation is sometimes paired with fraudulent schemes such as computer-generated calls that hang up in order to generate return calls, and SIM box fraud.

essence, ultimately support businesses designed to take advantage of today's above-cost intercarrier compensation rates." *Id.* ¶ 663.

The Commission further noted that, in access stimulation schemes, "consumers that do not use" the nominally "free" conferencing and adult chat line services "are forced to subsidize the customers that do" place calls to these conference and chat line services. *Id.* ¶ 657. Such access stimulation schemes also allow the LECs engaging in them to reap "inflated profits" that make their access rates "unjust and unreasonable" under the Act. *Id.*

The Commission estimated that the size of the implicit subsidies paid by long distance ratepayers arising from access stimulation schemes was between $330 and $460 million per year, *id.* ¶ 664, but rather than eliminate the schemes and the subsidies entirely, the Commission elected to reduce "the extent" of the subsidy. *Id.* ¶ 657. It thus required any carrier engaged in "access stimulation" – which the Commissioned defined in its rules – to revise its tariffed access charges. Incumbent LECs were required to refile their tariffs using more accurate data, and CLECs were required to benchmark their access rates to the rates charged by the lowest-price price cap LEC in the state. *Id.* ¶¶ 667-91.

The Commission recognized that these changes in its rules would "not entirely eliminate the potential for access stimulation." *Id.* ¶ 690. However, it observed that "the reforms we adopt elsewhere in this Order will, over time, further reduce intercarrier payments and the incentives for this type of arbitrage," *id.*, and that such schemes will be "curtail[ed]." *Id.* ¶¶ 33, 648. In other words, because the Commission was transitioning terminating end office access charges to a bill-and-keep regime by 2018, it expected that LECs engaged in access stimulation would abandon these access stimulation schemes because the access revenues that they had been generating would be reduced.

However, the unscrupulous carriers engaged in access stimulation had other ideas. As noted above, while some carriers (but not all) complied with the new requirements by lowering their end office switching rates, these carriers attempted to recoup the resulting lost revenues by assessing high per-minute, per mile transport charges. They also refused to offer direct trunking to their end offices, which would have allowed IXCs to avoid most or all of the transport charges – even though the price cap LECs to which these carriers are benchmarked have long offered such flat-rated transport options.[20] As such, access stimulation LECs have been able to continue their schemes by billing inflated transport charges, which are not currently subject to any transition to bill-and-keep. Further, rather than "curtail" their access stimulation schemes, these carriers have expanded their activities: access stimulating LECs are, by traffic volume, the largest carriers in Iowa and in South Dakota, and the largest LECs engaged in access stimulation in these two states each carry between three to eight times the traffic volume of the largest price cap LEC in each state, even though they have far fewer switches and other network facilities.

The case for forbearance of the tariffing requirements for transport and tandem charges for calls to and from access stimulating LECs is simple, straightforward, and compelling.[21] *First*, tariffing of transport and tandem charges on calls to or from access stimulating LECs is not

[20] In adjudications with these carriers, AT&T has asserted that the failure of these access stimulating LECs to offer such direct connections violates the Act and the Commission's existing rules. As explained above, however, even though such direct connections are required by law, it is still important for the Commission to forbear from its tariffing rules to address the harms arising from continued access stimulation schemes. Establishing direct connections is an imperfect solution for ratepayers, as doing so does not eliminate the incentives that drive the growth in such schemes. Without forbearance, access-stimulating parties could simply shift their traffic to carriers that continue to offer high tariffed charges for tandem-switching and transport.

[21] The forbearance sought applies to all LECs. Thus, even if a LEC is not itself engaged in access stimulation, a LEC may not lawfully tariff (or bill pursuant to a tariff) for transport or tandem access charges for any calls to or from a LEC engaged in access stimulation. In many cases, the excessive tandem and transport charges are being billed by an intermediate carrier that may not have direct contractual arrangements with a provider of free calling services. Nevertheless, once forbearance is granted, such LECs could not lawfully tariff tandem or transport charges for any traffic routed to or from a LEC engaged in access stimulation.

necessary to ensure that access rates (or any other rates) are "just and reasonable.: 47 U.S.C. § 160(a)(1). To the contrary, the Commission already has concluded that, when LECs engage in access stimulation schemes, the "significant increases in switched access traffic," without a corresponding drop in access rates, results in "inflated profits that almost uniformly make the LEC's interstate switched access rates *unjust and unreasonable*." *USF/ICC Transformation Order*, ¶ 657 (emphasis added). Although the Commission has reduced the terminating end office rates that access stimulating LECs could lawfully tariff, these LECs responded by increasing both their traffic volumes and their transport charges (or shifted toward originating access schemes). As such, nearly five years after the Commission acted to curb this abuse, LECs engaged in access stimulation continue to reap "inflated" overall profits through access charges that remain unreasonable.[22]

Second, tariffing of transport and tandem charges on calls to or from access stimulating LECs is not necessary "for the protection of consumers." 47 U.S.C. § 160(a)(2). Here again, in 2011, the Commission already examined in detail the effect of access stimulation schemes on consumers, and it concluded that such schemes "impose[] undue costs on consumers." *USF/ICC Transformation Order*, ¶ 663. Specifically, the Commission explained that consumers that do not use the free calling services associated with LECs' access stimulation schemes – such as adult chat lines – are "forced to subsidize" the users of such services, as well as the access stimulating LECs. Even after the Commission's reforms, consumers are *still* paying such

---

[22] Further, detariffing would not mean that access stimulating LECs would be free from all federal regulation. To the contrary, the Commission would continue to regulate the terms of any intercarrier compensation under the Act. Thus, while LECs would be able, consistent with the Commission's overall approach to intercarrier compensation reform, to arrange for the receipt of compensation via express, negotiated agreements (*USF/ICC Transformation Order*, ¶ 812), such agreements would still be subject to a uniform, national regime. As such, the Act and the Commission's scheme would provide the exclusive means of compensation for tandem-switching and transport service (or any access service). Accordingly, LECs cannot recover under alternate state-law theories, and any attempts by states to directly or indirectly regulate intercarrier compensation would be preempted.

subsidies: previously, the subsidy consisted of both end office and transport access charges, whereas now it consists primarily of transport access charges, which are not fully subject to the Commission's transition to bill-and-keep. *See supra* page 10 (discussing carrier that charges about 0.60 cents per minute in transport access charges). There has never been any credible evidence that tariffed charges for access stimulation schemes are needed to protect consumers. *See USF/ICC Transformation Order* ¶ 666 (rejecting claims that access stimulation is an appropriate way to finance "economic development" or "expansion of broadband services" in rural communities).

Third, forbearance from the tariffing of transport and tandem charges on calls to or from access stimulating LECs is "consistent with the public interest." 47 U.S.C. § 160(a)(3). When the Commission addressed access stimulation in 2011, it concluded that it has many "adverse effects" and that it was a "wasteful arbitrage practice[e], which cost[s] carriers and ultimately consumers hundreds of millions of dollars annually." *USF/ICC Transformation Order*, ¶¶ 33, 662. The Commission further found that "[a]ccess stimulation also harms competition." *Id.* ¶ 665. This is because the "free" calling partners of the access stimulating LECs, due to their share of the inflated access charge revenues, are given a "competitive advantage over companies that charge their customers for the service." *Id.* For the reasons described above, these public interest harms to consumers and to competition have not been eliminated by the Commission's prior efforts to limit "the extent" of the harm arising from access stimulation.

In this regard, it is important to point out that the reason that the Commission declined in 2011 to detariff CLEC access charges related to access stimulation traffic was because it "expect[ed]" that its reforms "will reduce the effects of access stimulation significantly, and the intercarrier compensation reforms we adopt should resolve remaining concerns." *Id.* ¶ 692.

Unfortunately, the reforms have not materially reduced the harmful effects of access stimulation. And, because the Commission has not yet put in place a plan for a complete transition to bill-and-keep for transport rate elements, there remains a substantial opportunity for LECs to engage in access stimulation by billing excessive mileage charges.[23] The continued billing of these tariffed transport charges on calls to and from access stimulating LECs causes unreasonable rates, harms consumers and competition, and is not consistent with the public interest. Accordingly, forbearance is required under the statute.

V. THE COMMISSION SHOULD FORBEAR FROM RULES THAT PERMIT CHARGES FOR 8YY DATABASE DIPS.

The Commission should also forbear from its rules that permit LECs to tariff and assess per query database dip charges on toll-free calls.[24] These queries enable a LEC to identify the IXC to which a toll-free call should be routed. When the Commission initially authorized the charges associated with these database queries, it concluded that the "costs associated specifically with 800 data base access will be relatively modest."[25] In fact, at least one LEC conceded that "800 data base costs are so low that a non-recurring rate element could be used to recover them."[26] The Commission nevertheless permitted incumbent LECs to tariff a separate database dip charge, priced on a per query basis, emphasizing that the rates for the database access (which at that time were set on a rate of return basis) must be "based only on their data-

[23] Further, and in any event, the Commission in its prior proceeding was exercising its discretion in a rulemaking, and was not evaluating forbearance, which is governed by the specific statutory criteria in Section 10 of the Act.

[24] *See* App. A (listing rules). The Commission also authorized a separate tariffed charge for access to the Service Management System (SMS), which is now managed and billed by SMS 800, Inc. *See In the Matter of Toll Free Service Access Codes*, 28 FCC Rcd 15328 (2013). Nothing in this Petition affects those services. Nor does the Petition affect any rules for unbundling of access to databases. The Petition concerns only the database query charges that LECs tariff and bill to IXCs on toll-free calls.

[25] Report and Order, *In the Matter of Provision of Access for 800 Service*, 4 FCC Rcd. 2824, ¶ 73 (1989) ("*800 Report and Order*").

[26] *Id.* n.147.

base-specific costs."[27] If a LEC did not itself own the equipment needed to query the toll-free database, then it could "purchase query service from another LEC that has a regional data base."[28]

Today, an unusual and disturbing pattern has emerged with respect to the pricing of toll-free database queries – which, under the Commission's current regime, IXCs offering toll-free services have no choice but to accept and purchase at a LEC's tariffed rate. As to the charges tariffed by LECs and billed to captive IXCs, there is a wide variation in the tariffed charges for toll-free database queries billed by LECs.[29] However, as noted above, LECs have the ability to purchase the query service from wholesale service providers, pursuant to negotiated contracts. Based on AT&T's review of the prices charged in that market for database queries, the prices for such services are generally (i) more uniform; and (ii) lower than the tariffed rates billed by many LECs. These data raise questions as to whether Commission's rules are adequately constraining the price of toll free database queries, particularly those being billed by CLECs involved in access stimulation.

[27] *Id.* ¶ 74; *see* 47 C.F.R. § 69.118. The Commission later transitioned the charges to the price cap regime. Second Report and Order, *In the Matter of Provision of Access for 800 Service*, 8 FCC Rcd. 907 (1993). The Commission apparently has never expressly authorized competitive LECs to impose a database query charge, but virtually all CLECs do so. Further, when the Commission imposed a "benchmark" system to limit the access charges CLECs could impose on IXCs, the Commission declined to include toll-free database query charges within its benchmark rules, although the Commission explained that CLECs should "not look to this category of tariffed charges to make up for access revenues." *CLEC Access Charge Reform Order*, n.128.

[28] Report and Order, *In the Matter of 800 Data Base Access Tariffs*, 11 FCC Rcd. 15227, ¶ 9 (1996) ("*800 Database Query Tariff Investigation Order*").

[29] *Compare* Advanced Comm'cns Tech., Inc., Tariff F.C.C. No. 1, 1st Rev. Page 7-5 (incorporating NECA FCC Tariff No. 5 rate, which is $0.0057); Birch Comm'cns, Tariff FCC No. 1, Orig. Sheet 57 ($0.0075); Frontier Tel. Cos., Tariff FCC No. 1, Orig. Page 20-10 ($0.01047977); *and* XO Comm'cns, LLC, Tariff FCC No. 1, 3rd Rev. Page 162 ($0.011), *with* Ameritech Operating Cos., Tariff F.C.C. No. 22, 27th Rev. Page 228 ($0.002304), *and* Sw. Bell Tel. Co., Tariff F.C.C. No. 73, 22nd Rev. Page 6-209 ($0.002531).

As the Commission has long recognized, there is an obvious incentive for CLECs, absent regulation, to use the tariff rules "to impose excessive access charges on IXCs and their customers." *See CLEC Access Charge Reform Order*, ¶ 2. Moreover, when the Commission initially imposed a "benchmark" system to limit the access charges CLECs could impose on IXCs, it declined to include toll-free database query charges within its benchmark rules, although it did counsel the CLECs "not look to this category of tariffed charges to make up for access revenues." *Id.*, n.128. Based on the current pricing in some CLEC tariffs, that warning does not appear to have been effective. Indeed, it is evident that some CLECs have tariffed toll-free database query charges that are not just and reasonable, and that are in excess of the rates imposed by other LECs.[30]

Under these circumstances, the Commission should forbear from all of its rules that allow LECs to tariff a charge billed to IXCs for toll-free database queries.[31] Those rules include the specific provisions in Part 69 that authorize the per query database charges, as well as Section 203 and the Commission's tariffing rules that permit the toll-free database query charges to be imposed via tariff. All three of the statutory criteria for forbearance are met.

First, enforcement of these rules is not necessary to ensure that charges for toll-free services are just and reasonable, or to protect consumers. 47 U.S.C. § 160(a)(1), (2). To the contrary, the current regulatory regime creates the opposite incentive by allowing for wide variations in toll free database query charges, and the LEC tariffed rates at the high end of the

---

[30] When the Commission examined the reasonableness of toll-free database query charges in 1996, it found that some LECs offered the service for as low as $0.0022, and that the mean rate charged by all LECs was $0.0044. *800 Database Query Tariff Investigation Order*, ¶ 14.

[31] *See* App. A.

range are not just or reasonable.[32] If IXCs had a choice of providers for these queries – as the providing LECs do – then these current high rates could not be sustained.[33]

Most notably, if the costs of toll-free database queries are not forcibly passed on to IXCs and toll-free customers via tariffs, and existing competitive market forces are permitted to operate, then the resulting "market discipline" will work to reduce overall costs of such queries, by giving LECs "appropriate incentives to serve their [own end-user] customers efficiently." *USF/ICC Transformation Order* ¶ 742. By contrast, under the current regime, LECs have no incentive to provide database queries to IXCs at an efficient, market based price, because their tariffed charges are "not . . . subject to competitive discipline." *Id.* Indeed, under the current system, toll-free customers – because they absorb all of these costs through often-inflated tariffed query charges – are paying an "opaque implicit subsidy," which the Commission has pledged to eliminate. *Id.* ¶ 738.

Forbearance from toll free database queries is also consistent with the Commission's statements concerning cost causation. *See id.* ¶¶ 744-45. While the original purpose of a toll-free call may have been to allow the calling party to avoid per-minute long distance charges, and

---

[32] As the Commission has explained, as to toll-free calls, "the role of the originating LEC is more akin to the traditional role of the terminating LEC in that the IXC carrying the 8YY traffic must use the access service of the LEC subscribed to by the calling party. Stated differently, in the case of 8YY traffic, because the calling party chooses the access provider but does not pay for the toll call, it has no incentive to select a provider with lower originating access rates." *USF/ICC Transformation Order*, ¶ 1303.

[33] *Cf. CLEC Access Charge Reform Order*, ¶ 37 ("it is highly unusual for a competitor to enter a market at a price dramatically above the price charged by the incumbent, absent a differentiated service offering").

Although, in theory, the Commission could refine its rules for database queries to eliminate the high rates, or set some type of market-based benchmark that would act as a ceiling on toll-free database queries, such action would be inconsistent with the Commission's transformation to a bill-and-keep regime for intercarrier compensation. *See USF/ICC Transformation Order*, ¶ 736-37. As the Commission explained, under bill-and-keep, "a carrier generally looks to its end users – which are the entities and individuals making the choice to subscribe to that network – rather than looking to other carriers and their customers to pay for the costs of its network." *Id.*¶ 737. That methodology "has significant policy advantages," and the Commission can rely on those advantages to ensure that ratepayers are not harmed.

instead have the toll free customer pay the IXC for the long distance service, the Commission has now recognized that when any call is completed, "both parties generally benefit, . . . and therefore, [] both parties should split the cost of the call." *Id.* ¶ 744. That is what would occur on toll-free calls if the Commission forbears from its rules so that LECs would no longer be entitled to bill toll-free database queries in tariffs: originating LECs and their end users will be responsible for the costs of routing a toll-free call to the appropriate IXC (including the database query cost), and the called party (the toll-free customer) will continue to pay for the market-based costs associated with carrying the call from the originating LEC to the customer's equipment. After forbearance from tariffing of toll-free database query charges, rates for toll-free service should decrease, because that market has long been intensely competitive, and the elimination of high query charges that IXCs would not have voluntarily paid will be passed onto to consumers of toll-free services. *See id.* ¶ 748.

Second, for many of the same reasons, forbearance from rules allowing toll-free database queries is consistent with the public interest. 47 U.S.C. § 160(a)(3). As stated above, toll-free database query charges assessed on IXCs are not subject to any market discipline, were untouched by the Commission's past access reform orders, and the Commission's current rules provide no incentives for many LECs to reduce their costs. By contrast, wholesale providers of database query charges are subject to competitive pressures, and, as a consequence, their query rates are generally lower than those charged by many LECs. Forbearance will force all LECs to innovate and reduce costs because of competitive pressures, *see USF/ICC Transformation Order*, ¶¶ 742, 745, 750, and under Section 10(b), "forbearance is in the public interest" when – as here – "forbearance will promote competition among providers of telecommunications service." 47 U.S.C. § 160(b). If forbearance is granted, LECs that innovate and find more efficient methods of querying the database will be able to reduce prices to their end users.

Notably, in 2013, when the Commission addressed changes to the administration of the SMS tariff that allows access to toll-free numbers, at least two Commissioners recognized that the Commission's regulations pertaining to toll-free numbers had not kept pace with changes in the marketplace.[34] Commissioner Clyburn (who was then acting Chairwoman) stated that use of toll-free numbers "has changed dramatically" since the Commission's applicable rules were put in place, and that the Commission should make "changes in[] our regulations so that they more closely reflect the current marketplace." Clyburn Statement, 28 FCC Rcd 15328 at 15349. And Commissioner Pai noted that as, to regulation of toll-free services, "there is still more to be done," and that it is "past time to reexamine" the Commission's pre-1996 Act decisions about toll-free services. Pai Statement, 28 FCC Rcd. at 15350. Commission Pai in particular recommended re-examination of whether toll-free numbers should be tariffed, "[g]iven that tariffs are going the way of the dodo," and he urged the Commission to "restructure [its] rules to better reflect [its] statutory authority and marketplace realities." *Id.* The conclusions of these Commissioners are equally applicable to the Commission's rules regarding LECs' tariffed database query charges for toll-free services.

For these reasons, the elimination of tariffed toll-free database queries forcibly imposed on IXCs and their toll-free customers would reduce rates, protect ratepayers, and promote competition to provide efficient database query services. As such, under Section 10 of the Act, forbearance is mandatory.

[34] *See* Separate Statement of Acting Chairwoman Mignon Clyburn, *In the Matter of Toll Free Service Access Codes*, 28 FCC Rcd 15328, 15349 (2013) (Clyburn Statement); *id.* at 15350 (Statement of Commissioner Ajit Pai).

CONCLUSION

For the foregoing reasons, the Commission is required to forbear from the two types of requirements identified above and in Appendix A. In addition, the Commission should take prompt action to complete intercarrier compensation reform.

Michael J. Hunseder
E. Benton Keatley
Sidley Austin LLP
1501 K Street, NW
Washington, D.C. 20005
(202) 736-8000 - telephone
(202) 736-8711 - facsimile

Christi Shewman
Gary L. Phillips
David L. Lawson
AT&T Services, Inc.
1120 20th Street, NW
Suite 1000
Washington, D.C. 20036
(202) 457-3090 - telephone
(202) 463-8066 - facsimile

September 30, 2016

Attorneys for AT&T Services, Inc.

APPENDIX A

Pursuant to Section 1.54 of the Commission's rules, 47 C.F.R. § 1.54, AT&T states that it seeks forbearance from the statutory provisions, rules, or requirements set forth in the table below.

47 C.F.R. § 1.54(a)(1)

Statutory Provisions, Rules, or Requirements Addressed In Part IV of the Petition	**As Applied to**
Section 203 of the Communications Act of 1934, as amended ("Act"), to the extent that it requires carriers to file tariffs for charges for tandem-switching and transport charges on calls to or from local exchange carriers ("LECs") engaged in access stimulation, as defined in 47 C.F.R. § 61.3(bbb); 47 U.S.C. § 203.	All LECs, including intermediate LECs and centralized equal access ("CEA") providers, on calls originated by or terminated to LECs engaged in access stimulation, as defined in 47 C.F.R. § 61.3(bbb)
Part 61 of the Commission's rules, to the extent that it allows for the tariffing of charges for tandem-switching and transport on calls to or from local exchange carriers engaged in access stimulation, as defined in 47 C.F.R. § 61.3(bbb), including but not limited to sections 61.26 and 61.47; 47 C.F.R. §§ 61.1 *et seq.*	All LECs, including intermediate LECs and CEA providers, on calls to or from LECs engaged in access stimulation, as defined in 47 C.F.R. § 61.3(bbb).
Part 69 of the Commission's rules, to the extent that it allows for the tariffing of charges for tandem-switching and transport on calls to or from local exchange carriers engaged in access stimulation, as defined in 47 C.F.R. § 61.3(bbb), including but not limited to sections 69.108 and 69.111; 47 C.F.R. §§ 69.1 *et seq.*	All LECs, including intermediate LECs and CEA providers, on calls to or from LECs engaged in access stimulation, as defined in 47 C.F.R. § 61.3(bbb).
Subpart J of Part 51 of the Commission's rules, to the extent that it allows for the tariffing of charges for tandem-switching and transport on calls to or from local exchange carriers engaged in access stimulation, as defined in 47 C.F.R. § 61.3(bbb), including but not limited to section 51.913; 47 C.F.R. §§ 51.901 *et seq.*	All LECs, including intermediate LECs and CEA providers, on calls to or from LECs engaged in access stimulation, as defined in 47 C.F.R. § 61.3(bbb).
Statutory Provisions, Rules, or Requirements Addressed In Part V of the Petition	**As Applied to**
Section 203 of the Act, to the extent that it requires carriers to tariff charges for 800 database access on a per-query basis; 47 U.S.C. § 203.	All LECs, including intermediate LECs and CEA providers.
Part 61 of the Commission's rules, to the extent that it allows for carriers to tariff charges for 800 database access on a per-query	All LECs, including intermediate LECs and

basis, including but not limited to section 61.47; 47 C.F.R. §§ 61.1 *et seq.*	CEA providers.
Part 69 of the Commission's rules, to the extent that it allows for carriers to tariff charges for 800 database access on a per-query basis, including but not limited to section 69.118; 47 C.F.R. § 69.118 *et seq.*	All LECs, including intermediate LECs and CEA providers.
The Commission's orders, to the extent that they require or allow carriers to tariff charges for 800 database access on a per-query basis, including but not limited to *In re Provision of Access for 800 Service*, 8 FCC Rcd. 907 (1993)	All LECs, including intermediate LECs and CEA providers.

47 C.F.R. § 1.54(a)(2)

AT&T requests that this forbearance relief be applied as a class to each carrier or group of carriers, and as specified for each provision, as set forth in the table above.

47 C.F.R. § 1.54(a)(3)

AT&T requests that this forbearance relief be applied to the services as set forth in the table above.

47 C.F.R. § 1.54(a)(4)

AT&T requests that this forbearance relief be applied in all regions across the entire United States and all territories.

47 C.F.R. § 1.54(a)(5)

Not applicable.

47 C.F.R. § 1.54(c)

Pursuant to Section 1.54(c) of the Commission's rules, AT&T states that it has taken positions in the following proceedings regarding relief that is comparable to the relief sought in this petition: *In re Connect America Fund*, WC Docket No. 10-90 *et al.*

47 C.F.R. § 1.54(e)(3)(i)

The scope of relief sought is set forth in the table above.

47 C.F.R. § 1.54(e)(3)(ii)

Not applicable.

47 C.F.R. § 1.54(e)(3)(iii)

Not applicable.